

Translation

PATENT COOPERATION TREATY

PCT/EP2003/010213



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

2 MAR 2005

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference H 05735 PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/010213	International filing date (day/month/year) 13 September 2003 (13.09.2003)	Priority date (day/month/year) 23 September 2002 (23.09.2002)
International Patent Classification (IPC) or national classification and IPC A23G 3/00		
Applicant SUSTECH GMBH & CO. KG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 03 March 2004 (03.03.2004)	Date of completion of this report 27 December 2004 (27.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/010213

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-38, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages 37, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 1-36, filed with the letter of 22 October 2004 (22.10.2004)
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP2003/010213

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application.

☒ claims Nos. 36

because:

☒ the said international application, or the said claims Nos. 36
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

The amended claims 1 and 25 contain the features of claims 1, 3 and 26 as originally filed.

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III.

Non-establishment of opinion with regard to novelty,
inventive step and industrial applicability

1. The subject matter of claim 36 relates to a method for treating organisms. Claim 36 thus relates to subject matter that, in the opinion of this Authority, falls under PCT Rule 67.1(iv). Consequently, no expert opinion has been established in respect of the industrial applicability of the subject matter of said claims (PCT Article 34(4)(a)(i)).
2. The description has not been adapted to the amended claims. The statement in Box V is thus subject to a suitably adapted description within the meaning of PCT Article 6.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-35	YES
	Claims		NO
Inventive step (IS)	Claims	1-35	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-35	YES
	Claims		NO

2. Citations and explanations

1. Coatings applied to chewing gum that contain sparingly soluble calcium salts are known from the prior art and can be found, for example, in document D1 (US-A-5 980 955), D2 (US 2001/021403 A1) or D3 (US 2001/021373 A1).

While document D1 does not indicate any preferred particle sizes, the particle sizes found in D2 or D3 are several times those specified in claims 1 and 25.

The particle sizes specified in claims 1 and 25 make possible a more efficient mineralization of the dental enamel.

Since none of the searched prior art documents describes coatings of chewing gum or the like containing nanoparticles of the present type, the use of same is also not suggested to a person skilled in the art.

2. Claims 2-24 and 26-35 relate respectively to preferred embodiments of the chewing gum according to claim 1 and the method according to claim 25 for producing said chewing gum.